P-3
E

1951. K File No. Road Transport II | 51 (R)

Legal Deptt.

13 BRANCH

Subject:— Notifications under the Road Transport Corporation Act 1948

File No. Road Transport- II | 51 (N)

Gen. 194 e.

478-

Office of the R.L.A.

The Home Department notification No. 1780/5 dated the 16th November, 1949, which set up the Bombay State Road Transport Corporation was issued under the Road Transport Corporations Act, 1948. In virtue of the provisions contained in that Act it was not legally possible to make any provision for taking over to the Corporation services referred to in the Home Department note. After the notification was issued the intention was that the notification should be supplemented by passing a Provincial Act under which the corporation could be given powers under or in spite of the Motor Vehicles Act, 1939 (cf. para.2 of R.L.A.'s opinion No. 4270 dated the 19th April, 1949). A Provincial Act called the Bombay State Road Transport Act, 1950, was accordingly passed and in view of the provisions contained in that Act (see sections 3 and 5) it would have been possible to solve the difficulty pointed out in these papers, but that Act was never brought into force.

2. From the Motor Transport Controller's letter of 12th February 1951 at pages 1-3 ante it appears that some permits continue in the name of the Motor Transport Controller and some others in the name of the Bombay State Road Corporation. As regards the permits standing in the name of the Motor Transport Controller, although rule 71 of the Bombay Motor Vehicles Rules has been deleted, it would be possible to have recourse to section 59 of the Motor Vehicles Act, 1939, and yet the permits standing in the name of the Motor Transport Controller transferred to the Corporation with the sanction of the Transport Authority.

4 c.
V.R.K.
6/7/56

As regards permits which were granted to the Corporation set up under the Home Department Notification of 16th November 1949, they are saved by clause (d) of sub-section (2) of section 47 of the Road Transport Corporation Act, 1950. Under this clause the permits granted to the Corporation set up under the aforesaid notification shall be deemed to have been granted on behalf of the new corporation.

O.C. Sd/- 6/4

Remembrancer of Legal Affairs.

U.R. to H.D. No. 350-confl, dated the 10th April 1951.

Office of the R.L.A.

A rule imposing a statutory liability on the State Government to place a report of the auditors referred to in section 33 of the Act before the State Legislature cannot be made under the Road Transport Corporation Act, 1950. Such a rule would not be covered even by the general provisions contained in sub-section (1) of section 44 of the Act; since such a rule cannot be considered as purporting to give effect to the provisions of the said Act. It is true that the Central Government as well as the State Government are entitled to receive a copy of the auditors report under sub-section (3) of section 33 of the Act. But that does not imply that any statutory liability can be imposed upon the State Government to place such report before the State Legislature.

O.C. Sd/-
6/9

Remembrancer of Legal Affairs.

U.R. to F.D. No. 109-L, dated the 6th September 1951.

4 d.
V.R.K.
6/7/56